

The Burger Court Opinion Writing Database

Simmons v. West Haven Housing Authority
399 U.S. 510 (1970)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 18, 1970

Re: No. 81 - Simmons v. West Haven Housing Authority

Dear John:

Please join me.

Regards,



W. E. B.

Mr. Justice Harlan

cc: The Conference

June 15, 1970

MEMORANDUM FOR THE CONFERENCE

I am agreeing to the following opinions:

No. 81 - Simmons v. West Haven Housing Auth.
(Harlan, J., Per Curiam)

No. 1435 - Overmyer Co. v. Frick Co.,
(Douglas, J., dissenting)

No. 1507 and No. 1556 - Perkins v. Standard Oil
(Per Curiam, Stewart, J.)

Respectfully,

H. L. B.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HUGO L. BLACK

June 15, 1970

Dear John,

Re: No. 81 - Simmons v. West Haven, etc.

I agree.

Sincerely,


Hugo

Mr. Justice Harlan

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Harlan
 Mr. Justice Brennan ✓
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 81.—OCTOBER TERM, 1969

Clarendon: 6/11/70

Rector Simmons, Jr.,
 et ux., Appellants,
 v.
 West Haven Housing
 Authority.

On Appeal From the Appellate
 Division of the Circuit Court
 of Connecticut.

[June —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

This was a summary procedure brought by a landlord¹ to obtain possession from his tenants for nonpayment of rent. The trial court found for the landlord and the tenants appealed.

Connecticut law requires one taking an appeal in such an action to post a bond with surety. The tenants showed they were financially unable to post the bond and claimed that to require a bond with surety to obtain an appeal would under those circumstances be a denial of equal protection. The trial court refused to waive the requirement for a bond with surety saying that "the appeal is for the purpose of delay."

The Circuit Court affirmed. The Appellate Division ordered the termination of a stay of execution. 5 Conn. Circ. 282, 250A 2d 527. The Supreme Court denied certification.

I would reverse this judgment. A rich tenant, whatever his motives for appeal, would obtain appellate review. This tenant, because of his poverty, obtains none. I can imagine no clearer violation of the requirement of equal protection unless it be *Griffin v. Illinois*, 351

¹ Respondent operates a federally assisted low-rent housing project under the authority of 42 U. S. C. § 1401 *et seq.* and Conn. Gen. Stat. § 8-38 *et seq.*

SUPREME COURT OF THE UNITED STATES

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

No. 81.—OCTOBER TERM, 1969

From: Douglas, J.

Rector Simmons, Jr.,
 et ux., Appellants,
 v.
 West Haven Housing
 Authority.

Circulated:
 On Appeal From the Appellate
 Division of the Circuit Court of Connecticut.

Received: 6-16

[June —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

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J. April
To: The Chief Justice

Mr. Justice Black

Mr. Justice Douglas

Mr. Justice Brennan

Mr. Justice Stewart

Mr. Justice White

Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 81.—OCTOBER TERM, 1969

Rector Simmons, Jr.,
et ux., Appellants,
v.
West Haven Housing
Authority.

On Appeal From the Appellate
Division of the Court of Appeals of Connecticut.

Circulated: **JUN 11 1970**

[June —, 1970]

Recirculated: _____

PER CURIAM.

We noted probable jurisdiction in this case to decide whether § 52-542 of the Connecticut General Statutes¹ requiring a bond for the protection of his landlord from a tenant who wished to appeal from a judgment in a summary eviction proceeding, offends either the Due Process or Equal Protection Clauses of the Fourteenth Amendment if applied to foreclose appellate review for those too poor to post the bond, 394 U. S. 957 (1969).

¹ Section 52-542 provides:

"Bond on appeal; stay of execution. When any appeal is taken by the defendant in an action of summary process, he shall give a sufficient bond with surety to the adverse party, to answer for all rents that may accrue or, where no lease had existed, for the reasonable value for such use and occupancy, during the pendency of such appeal, or which may be due at the time of its final disposal; and execution shall be stayed for five days from the date judgment has been rendered, but any Sunday or legal holiday intervening shall be excluded in computing such five days. No appeal shall be taken except within said period, and if an appeal is taken within said period execution shall be stayed until the final determination of the cause, unless it appears to the judge who tried the case that the appeal was taken for the purpose of delay; and if execution has not been stayed, as hereinbefore provided, execution may then issue, except as otherwise provided in sections 52-543 to 52-548, inclusive."

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 81.—OCTOBER TERM, 1969

Circulated:

Rector Simmons, Jr.,
et ux., Appellants,
v.
West Haven Housing
Authority.

On Appeal From the Appellate
Division of the Circuit Court
of Connecticut.

Recirculated JUN 25 1970

[June —, 1970]

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 18, 1970

RE: No. 81 - Simmons v. West Haven Housing
Authority

Dear John:

I agree with your Per Curiam in the above
case.

Sincerely,



W.J.B. Jr.

Mr. Justice Harlan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

June 12, 1970

No. 81 - Simmons v. W. Haven Housing

Dear John,

I am glad to join the Per Curiam you have prepared in this case.

Sincerely yours,

P.S.

Mr. Justice Harlan

Copies to the Conference



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

Opn

June 18, 1970

Re: No. 81 - Simmons v. West Haven Housing
Authority
No. 265 - Boddie v. Connecticut

Dear John:

Please join me in the opinions you have
written for these cases.

Sincerely,



B.R.W.

Mr. Justice Harlan

copies to The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 18, 1970

Re: No. 81 - Simmons v. West Haven Housing

Dear Bill:

Please join me in your dissent.

Sincerely,


T.M.

Mr. Justice Douglas

cc: The Conference